

Service Date: August 30, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF Application of Hot)	UTILITY DIVISION
Springs Telephone for New Detariffed)	
Service and Waiver Request for Incremental)	DOCKET NO. N99.5.116
Cost Study)	ORDER NO. 6738

FINAL ORDER

Background

1. On May 7, 1999, Hot Springs Telephone (HST) applied for approval from the Commission to offer Custom Calling Services and Voice Mail Service as new detariffed services pursuant to § 69-3-810, MCA.
2. On June 22, 1999, the Commission issued a Notice of Commission Action granting a one year waiver of the incremental cost study required by ARM 38.5.2735(1)(f) for the establishment of new detariffed services and requiring HST to file the required incremental study based on historical data gathered from the one year that it will have offered the services.
3. In that same NCA, the Commission granted interim approval of Call Forwarding, Call Forwarding Variable (All Call), Call Forwarding Busy Line, Call Forwarding Don't Answer, Call Forwarding (on same line), Call Waiting (on same line), Three Way Calling (on same line), Call Return, Call Trace, Call Transfer, Call Waiting, Caller ID, Caller ID Blocking, Preferred Call Forwarding, Priority Ringing, Call Screening, Special Cal Acceptance, Three Way Calling, Toll Control with PIN as tariffed services.
4. The Commission also granted interim approval of Automatic Wake Up Service, Repeat Dialing (Redial), Speed Calling, Basic Voice Mail, Advanced Voice Mail, Deluxe Voice Mail, Greeting Only Voice Mail as detariffed services.
5. On November 27, 2001, the Commission granted a continuation of the waiver for the incremental cost study required by ARM 38.5.2735(1)(f) until June 1, 2002. On December 10, 2001, HST provided cost information indicating that revenues were in excess of costs.

Findings of Fact

6. §69-3-810, MCA, states that a new service may be offered on a detariffed basis. It goes on to define a new service as any service that is introduced separately or in combination with other services and that is not functionally required to provide local exchange service or that is not a repackaged current service or a direct replacement for a regulated telecommunications service. Based on the narrowly construed focus of §69-3-810, MCA, it appears that HST has properly submitted services to be detariffed and price-listed.

7. The Commission must however, look at standards set forth in §69-3-807(3)(a)-(e), MCA, before it will grant approval of services to be detariffed. The factors in that section include: the number, size and distribution of alternative providers of service; the extent to which services are available from alternative providers in the relevant market; the ability of alternative providers to make functionally equivalent or substitute services readily available; the overall impact of the proposed terms and conditions on the continued availability for existing services at just and reasonable rates; and other factors that the Commission may prescribe through rulemaking that are appropriate.

8. HST fails the standards of §69-3-807(3)(a)-(e), MCA, and is unable to show where there are alternative providers making functionally equivalent or substitute services readily available in the services that the Commission previously approved as tariffed services. This is even more apparent in the time that has passed since the origination of this docket.

Conclusions of Law

9. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. HST is a public utility offering regulated telecommunications services in the State of Montana. Section 69-3-101, MCA.

10. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. Section 69-3-103, MCA.

11. The United States Congress enacted the Telecommunications Act of 1996 to encourage

competition in the telecommunications industry. Congress gave responsibility for much of the implementation of the 1996 Act to the states, to be handled by the state agency with regulatory control over telecommunications carriers. *See generally*, the Telecommunications Act of 1996, Pub.L. No. 104-104, 110 Stat. 56 (*amending scattered sections of the Communications Act of 1934*, 47 U.S.C. §§ 151, *et seq.*). The Montana Public Service Commission is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this Docket pursuant to Title 69, Chapter 3, MCA.

12. Adequate public notice and an opportunity to be heard has been provided to all interested parties in this Docket, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

Order

1. THEREFORE, based upon the foregoing, it is ORDERED that the services of Hot Springs Telephone for Automatic Wake Up Service, Repeat Dialing (Redial), Speed Calling, Basic Voice Mail, Advanced Voice Mail, Deluxe Voice Mail, Greeting Only Voice Mail be offered as detariffed services.

2. It is further ordered that the services of Hot Springs Telephone for Call Forwarding, Call Forwarding Variable (All Call), Call Forwarding Busy Line, Call Forwarding Don't Answer, Call Forwarding (on same line), Call Waiting (on same line), Three Way Calling (on same line), Call Return, Call Trace, Call Transfer, Call Waiting, Caller ID, Caller ID Blocking, Preferred Call Forwarding, Priority Ringing, Call Screening, Special Call Acceptance, Three Way Calling, Toll Control with PIN be continued to be offered as tariffed services.

DONE AND DATED this 23rd day of May 2006, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

Greg Jergeson, Chairman

Brad Molnar, Vice Chairman

Doug Mood, Commissioner

Robert H. Raney, Commissioner

Thomas J. Schneider, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.